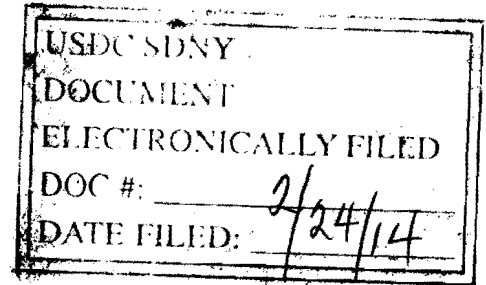


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February 21, 2014

**BY ECF**

The Honorable Victor Marrero  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *United States v. Arteaga*,  
S10 12 Cr. 859-13 (VM)

Dear Judge Marrero:

This letter is submitted on behalf of Luis Arteaga, whom I represent by CJA appointment in the above-captioned case, in regard to his sentencing, currently scheduled for Friday, February 28, 2014. Mr. Arteaga faces a five-year mandatory minimum sentence pursuant his plea of guilty to a violation 21 U.S.C. § 841(b)(1)(B). It is respectfully requested that this Court adjourn Mr. Arteaga's sentence pending Congressional action on the Smarter Sentencing Act, which could have an impact on Mr. Arteaga's sentencing.

Recently, the Smarter Sentencing Act [SSA] has reached the point at which Congress may in fact pass the legislation in the relatively near future. If enacted, the SSA would, among other provisions, reduce the five-year minimum sentence mandated by 21 U.S.C. 841(b)(1)(B) to two years. In addition, the Act would give federal courts enhanced discretion to deviate from any mandatory minimum sentence.

The Act, S.1410 (attached as Exhibit A), was approved by a bipartisan Senate Judiciary Committee vote and sent to the Senate floor on January 30, 2014. An identical bill, H.R. 3382, sponsored by the Republican Representative Raul Labrador of Idaho is pending before the House Judiciary Committee. Attorney General Eric Holder endorsed the enactment of this legislation January 23, 2014 [DOJ press release attached as Exhibit B], describing as "excessive" the

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Honorable Victor Marrero  
United States District Judge  
Southern District of New York  
February 21, 2014  
Page 2 of 2

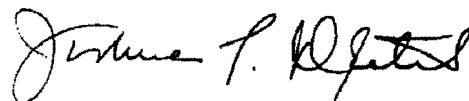
current mandatory minimum sentences.

I have spoken with Assistant United States Attorney Timothy T. Howard, and he has informed me that the government opposes this application. However, an adjournment would not prejudice the government in any manner, as Mr. Arteaga remains in custody. Also, even if the SSA passes, the government could still present the same arguments for the sentence it contends is reasonable. Conversely, Mr. Arteaga, who might be sentenced pursuant to a mandatory minimum sentencing scheme that might not exist much longer (at its current levels), would be significantly prejudiced by proceeding with sentencing at this time.

Also, given the Attorney General's position, the prospect of a sentence that might be "excessive" under current law would not be in the public interest. Thus, an adjournment of Mr. Arteaga's sentencing would serve the interests of justice. Indeed, upon information and belief, other courts in this District have granted such adjournments, *see United States v. Medina* (Judge Batts), while others have not (although the particular circumstances of each of those cases is not known). In addition, attached as Exhibit C is an Order issued by Judge William J. Martinez in the District of Colorado granting a motion to continue sentencing based on the pending legislation.

Accordingly, in light of the pending legislation, it is respectfully requested that this Court adjourn Mr. Arteaga's sentence until the bill is enacted into law or rejected by Congress.

Respectfully Submitted,



Joshua L. Dratel

JLD/

cc: Timothy T. Howard  
Assistant United States Attorney

